

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Thursday, January 9, 2014
Place: Department B – Courtroom #12
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. The following rulings are tentative. The tentative ruling will not become the final ruling until the matter is called at the scheduled hearing. **Pre-disposed matters will generally be called, and the rulings placed on the record at the end of the calendar.** Any party who desires to be heard with regard to a pre-disposed matter may appear at the hearing. If the party wishes to contest the tentative ruling, he/she shall notify the opposing party/counsel of his/her intention to appear. **If no disposition is set forth below, the hearing will take place as scheduled.**

2. Submission of Orders:

Unless the tentative ruling expressly states that the court will prepare a civil minute order, then the tentative ruling will only appear in the minutes. If any party desires an order, then the appropriate form of order, which conforms to the tentative ruling, must be submitted to the court. When the debtor(s) discharge has been entered, proposed orders for relief from stay must reflect that the motion is denied as to the debtor(s) and granted only as to the trustee. Entry of discharge normally is indicated on the calendar.

3. Matters Resolved Without Opposition:

If the tentative ruling states that no opposition was filed, and the moving party is aware of any reason, such as a settlement, why a response may not have been filed, the moving party must advise Vicky McKinney, the Calendar Clerk, at (559) 499-5825 by 4:00 p.m. the day before the scheduled hearing.

4. Matters Resolved by Stipulation:

If the parties resolve a matter by stipulation after the tentative ruling has been posted, but **before the formal order is entered on the docket**, the **moving party** may appear at the hearing and advise the court of the settlement or withdraw the motion. Alternatively, the parties may submit a stipulation and order to modify the tentative ruling together with the proposed order resolving the matter.

5. Resubmittal of Denied Matters:

If the moving party decides to re-file a matter that is denied without prejudice for any reason set forth below, the moving party must file and serve a new set of pleadings with a new docket control number. It may not simply re-notice the original motion.

9:00 A.M.

1. [13-17341](#)-B-11 HOWARD SAGASER
HAGOP BEDOYAN/Atty. for dbt.

CHAPTER 11 STATUS CONFERENCE
11-22-13 [[17](#)]

2. [13-17341](#)-B-11 HOWARD SAGASER

HAGOP BEDOYAN/Atty. for dbt.
WITHDRAWN

OPPOSITION TO COURT'S NOTICE OF
INTENT TO DISMISS CASE
11-27-13 [[27](#)]

**This matter has been withdrawn. The court's notice of intent to dismiss
appears to be moot.**

3. [13-17341](#)-B-11 HOWARD SAGASER
KDG-2
HOWARD SAGASER/MV
HAGOP BEDOYAN/Atty. for dbt.

MOTION TO EMPLOY GARY I.
ISTANBOULIAN AS ACCOUNTANT(S)
11-27-13 [[24](#)]

10:30 A.M.

1. [11-61313](#)-B-7 FELIPE MARTINEZ CONTINUED STATUS CONFERENCE RE:
[13-1109](#) COMPLAINT
SALVEN V. MARTINEZ 10-11-13 [[1](#)]
THOMAS ARMSTRONG/Atty. for pl.
RESPONSIVE PLEADING

Pursuant to the plaintiff's status conference statement, it appears this adversary proceeding has been settled. The status conference will be dropped from calendar and may be reset by any party on 10 days' notice. No appearance is necessary. The clerk of the court may close the adversary proceeding without notice in 60 days unless the adversary proceeding has been concluded or set for a further status conference within that time. Either party may request an extension of this time up to 30 days by ex parte application for cause. After the adversary proceeding has been closed, the parties will have to file an application to reopen the adversary proceeding if further action is required. The court will issue a civil minute order.

2. [13-13527](#)-B-7 BRIAN MILLER STATUS CONFERENCE RE: COMPLAINT
[13-1079](#) 7-11-13 [[1](#)]
SCOGGINS V. MILLER
WILLIAM REHWALD/Atty. for pl.

3. [13-15027](#)-B-7 JAVIER MALDONADO AND STATUS CONFERENCE RE: COMPLAINT
[13-1120](#) ESMERALDA TREVINO 10-29-13 [[1](#)]
VASQUEZ V. MALDONADO ET AL
EDWARD RAMIREZ/Atty. for pl.

This status conference will be dropped from calendar because the record does not show that the summons and complaint were properly and/or timely served in compliance with FRBP 7004(b) & (e). The clerk of the court will issue a notice of intent to dismiss for unreasonable delay and failure to prosecute if the plaintiff does not get the complaint properly served with a reissued summons within 30 days. No appearance is necessary.

4. [13-13527](#)-B-7 BRIAN MILLER CONTINUED MOTION FOR RELIEF
WDR-2 FROM AUTOMATIC STAY
ALYS SCOGGINS/MV 10-29-13 [[32](#)]
RICHARD DWYER/Atty. for dbt.
WILLIAM REHWALD/Atty. for mv.
ORDER 12/11

The court intends to deny this motion without prejudice. This matter was continued from the original hearing date of December 11, 2013, because it has not been served on the chapter 7 trustee. The trustee was subsequently served with a notice of the continued hearing, but he still has not been served with the moving papers and supporting evidence. No appearance is necessary.

5. [13-15134](#)-B-7 FERNANDO GARCIA STATUS CONFERENCE RE: COMPLAINT
[13-1121](#) 11-1-13 [[1](#)]
U.S. TRUSTEE V. POPOVICH
ROBIN TUBESING/Atty. for pl.
RESPONSIVE PLEADING

6. [13-16036](#)-B-7 PATRICIA SNOW STATUS CONFERENCE RE: COMPLAINT
[13-1117](#) 10-28-13 [[1](#)]
SNOW V. GILL
TIMOTHY SPRINGER/Atty. for pl.
RESPONSIVE PLEADING

This matter will be dropped from calendar without a disposition. The adversary proceeding has already been dismissed by stipulation of the parties. No appearance is necessary.

7. [05-10538](#)-B-7 RAY MCEDWARD STATUS CONFERENCE RE: AMENDED
[13-1093](#) COMPLAINT
MCEDWARD ET AL V. CALIFORNIA 10-30-13 [[14](#)]
STATE FRANCHISE TAX BOARD
JOHN MAXEY/Atty. for pl.

8. [13-11642](#)-B-7 MERCED MILLING COMPANY, STATUS CONFERENCE RE: COMPLAINT
[13-1123](#) LLC 11-8-13 [[1](#)]
STRAIN V. STATE OF CALIFORNIA,
FRANCHISE TAX BOARD, EMPLOYME
TRUDI MANFREDO/Atty. for pl.
DISMISSED

This matter will be dropped from calendar without a disposition. The adversary proceeding has already been dismissed. No appearance is necessary.

9. [13-14765](#)-B-7 MARIA GARCIA STATUS CONFERENCE RE: COMPLAINT
[13-1096](#) 9-3-13 [[1](#)]
U.S. TRUSTEE V. GARCIA
ROBIN TUBESING/Atty. for pl.

It appears that the defendant's default has been entered. The status conference will be dropped from calendar and may be reset by any party on 10 days' notice. No appearance is necessary. The clerk of the court may close the adversary proceeding without notice in 60 days unless the adversary proceeding has been concluded or set for a further status conference within that time. Either party may request an extension of this time up to 30 days by ex parte application for cause. After the adversary proceeding has been closed, the parties will have to file an application to reopen the adversary proceeding if further action is required. The court will issue a civil minute order.

10. [13-14765](#)-B-7 MARIA GARCIA
[13-1096](#) UST-1
U.S. TRUSTEE V. GARCIA
ROBIN TUBESING/Atty. for mv. MOTION FOR ENTRY OF DEFAULT
JUDGMENT
12-12-13 [[14](#)]
11. [13-14971](#)-B-7 DAT LUONG
[13-1118](#)
THE CEMENT MASONS HEALTH AND
WELFARE TRUST FUND FO V. LUONG
JOLENE KRAMER/Atty. for pl.
RESPONSIVE PLEADING STATUS CONFERENCE RE: COMPLAINT
10-28-13 [[1](#)]
12. [13-14971](#)-B-7 DAT LUONG
[13-1119](#)
CARPENTERS HEALTH AND WELFARE
TRUST FUND FOR CALIF V. LUONG
JOLENE KRAMER/Atty. for pl. STATUS CONFERENCE RE: COMPLAINT
10-28-13 [[1](#)]

1:30 P.M.

1. [10-16902](#)-B-13 KHOUN/VICKY TAN
TCS-4
KHOUN TAN/MV
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO APPROVE LOAN
MODIFICATION
12-17-13 [[39](#)]

2. [13-13903](#)-B-13 GARY CROCKER
JDW-2
GARY CROCKER/MV
JOEL WINTER/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
WELLS FARGO BANK, N.A.
12-9-13 [[40](#)]

This motion to value the collateral for a consensual lien against real property was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted for cause shown without oral argument. Based on the evidence offered in support of the motion, the respondent's junior priority mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtor(s) may proceed under state law to obtain a reconveyance of respondent's trust deed upon completion of the chapter 13 plan and entry of the discharge. *Unless the chapter 13 plan has been confirmed, then the order shall specifically state that it is not effective until confirmation of the plan.* The debtor(s) shall submit a proposed order consistent with this ruling. No appearance is necessary.

This ruling is only binding on the named respondent in the moving papers and any successor who takes an interest in the property after service of the motion.

3. [13-13903](#)-B-13 GARY CROCKER
MHM-1
MICHAEL MEYER/MV

CONTINUED MOTION TO DISMISS
CASE FOR UNREASONABLE DELAY
THAT IS PREJUDICIAL TO
CREDITORS AND/OR MOTION TO
DISMISS CASE
9-20-13 [[20](#)]

JOEL WINTER/Atty. for dbt.
RESPONSIVE PLEADING

4. [13-13903](#)-B-13 GARY CROCKER
MHM-2
MICHAEL MEYER/MV

CONTINUED MOTION TO DISMISS
CASE FOR UNREASONABLE DELAY
THAT IS PREJUDICIAL TO
CREDITORS AND/OR MOTION TO
DISMISS CASE
10-17-13 [[28](#)]

JOEL WINTER/Atty. for dbt.

5. [13-16310](#)-B-13 SALOME OVALLE MOTION FOR COMPENSATION
NEA-2 12-9-13 [[28](#)]
NICHOLAS ANIOTZBEHERE/MV
NICHOLAS ANIOTZBEHERE/Atty. for dbt.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The "no-look" fee of \$3,500 will be approved for payment through the chapter 13 plan. The moving party shall submit a proposed order. No appearance is necessary.

6. [10-64021](#)-B-13 ANDY/MARIAN SHUBIN MOTION TO MODIFY PLAN
MNE-9 11-21-13 [[135](#)]
ANDY SHUBIN/MV
M. ENMARK/Atty. for dbt.

The motion will be denied without prejudice. The debtors are proposing to modify a confirmed chapter 13 plan. The court must determine, *inter alia*, that the modified plan is proposed in good faith. However, the motion is devoid of any information or evidence that would inform the creditors and the court as to what specific term(s) is (are) being modified in the plan and why. The moving papers contain pages of boilerplate statements that appear to have little bearing on the matter before the court. The motion fails to give adequate notice of the relief being sought.

The only modification disclosed in the moving papers is the extension of the plan term to 60 months. However, the debtors are already operating under a 60 month plan. In addition, the proposed plan substantially reduces the payment to the IRS on its class 2 claim (see order confirming third modified plan) without adequate disclosure or explanation. No appearance is necessary.

7. [12-14722](#)-B-13 SHANNAN/MARIE SANDOVAL MOTION FOR COMPENSATION FOR
BCS-2 SHEIN LAW GROUP, DEBTOR'S
SHANNAN SANDOVAL/MV ATTORNEY(S),
12-2-13 [[39](#)]
BENJAMIN SHEIN/Atty. for dbt.
NON-OPPOSITION

This matter was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

8. [10-14725](#)-B-13 GARY/CARLA BRADING MOTION TO APPROVE LOAN
DRJ-2 MODIFICATION
GARY BRADING/MV 12-19-13 [[46](#)]
DAVID JENKINS/Atty. for dbt.

9. [11-16825](#)-B-7 CRISPIN/CATALINA REYES ORDER TO SHOW CAUSE
12-18-13 [[42](#)]
JERRY LOWE/Atty. for dbt.
10. [10-13227](#)-B-13 KENNETH/LIANE MAZZELLA MOTION TO MODIFY PLAN
PLF-2 11-27-13 [[35](#)]
KENNETH MAZZELLA/MV
GABRIEL WADDELL/Atty. for dbt.
11. [13-16027](#)-B-13 DUSTIN/NICOLE ORMITA MOTION TO CONFIRM PLAN
JRL-1 11-19-13 [[28](#)]
DUSTIN ORMITA/MV
JERRY LOWE/Atty. for dbt.
12. [13-17027](#)-B-13 JUAN MARTINEZ ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-4-13 [[23](#)]
JAMES MILLER/Atty. for dbt.

The record shows that the required fee has been paid in full. The OSC will be dropped from calendar. No appearance is necessary.

13. [11-61329](#)-B-13 SHERREY DEEVER MOTION TO MODIFY PLAN
PBB-3 12-6-13 [[61](#)]
SHERREY DEEVER/MV
PETER BUNTING/Atty. for dbt.
CONVERTED TO CH 13 1/5/12

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The debtor(s) shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

14. [10-61441](#)-B-13 VIDAL/KELLY MEDINA
RLF-3
VIDAL MEDINA/MV
JEFF REICH/Atty. for dbt.

MOTION TO MODIFY PLAN
11-25-13 [[32](#)]

The motion will be denied without prejudice. The debtor(s) is (are) proposing to materially modify the terms of a confirmed plan. Yet, there is nothing in the motion or the notice that clearly informs the court or the creditors what terms have been modified and why. The court cannot make a finding that the modified plan has been filed in good faith, or than it satisfies the elements for confirmation in 11 USC § 1329, without adequate disclosure of the proposed modifications and supporting evidence.

There is nothing in the moving papers to give creditors notice of a substantial reduction in the monthly payments and the percentage distribution to unsecured creditors. No appearance is necessary.

15. [12-17145](#)-B-13 DAVID/LISA PINA
TCS-2
DAVID PINA/MV
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO MODIFY PLAN
12-2-13 [[30](#)]

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The debtor(s) shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

16. [11-18158](#)-B-13 RAUL/MARIA TORRES
GH-5
RAUL TORRES/MV
GARY HUSS/Atty. for dbt.

MOTION TO MODIFY PLAN
11-19-13 [[69](#)]

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The debtor(s) shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

17. [10-19359](#)-B-13 PAUL BENSCHINE
PLF-6
PAUL BENSCHINE/MV
PETER FEAR/Atty. for dbt.
MOTION TO MODIFY PLAN
11-11-13 [[95](#)]
18. [13-13962](#)-B-13 MARIA MENDEZ-GONZALES
RCP-3
MARIA MENDEZ-GONZALES/MV
REYNALDO PULIDO/Atty. for dbt.
WITHDRAWN
MOTION TO CONFIRM PLAN
11-12-13 [[64](#)]

The matter has been withdrawn. No appearance is necessary.

19. [13-17167](#)-B-13 SHARON GARNICA
JAMES MILLER/Atty. for dbt.
ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-10-13 [[28](#)]

The record shows that the required fee has been paid in full. The OSC will be dropped from calendar. No appearance is necessary.

20. [13-15871](#)-B-13 DOMENICO FERRUA AND
PLF-1 SHAWNA GILES
DOMENICO FERRUA/MV
PETER FEAR/Atty. for dbt.
RESPONSIVE PLEADING
CONTINUED MOTION TO CONFIRM
PLAN
10-16-13 [[21](#)]

This matter will be dropped from calendar without a disposition. The case has already been dismissed. No appearance is necessary.

21. [13-16471](#)-B-13 JASVINDER SHERGILL
GH-1
JASVINDER SHERGILL/MV
GARY HUSS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
WELLS FARGO BANK, NA
11-7-13 [[16](#)]

This motion to value the collateral for a consensual lien against real property was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted for cause shown without oral argument. Based on the evidence offered in support of the motion, the respondent's junior priority mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtor(s) may proceed under state law to obtain a reconveyance of respondent's trust deed upon completion of the chapter 13 plan and entry of the discharge. *Unless the chapter 13 plan has been confirmed, then the order shall specifically state that it is not effective until confirmation of the plan.* The debtor(s) shall submit a proposed order consistent with this ruling. No appearance is necessary.

This ruling is only binding on the named respondent in the moving papers and any successor who takes an interest in the property after service of the motion.

22. [13-16471](#)-B-13 JASVINDER SHERGILL
GH-2
JASVINDER SHERGILL/MV
GARY HUSS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
EH NATIONAL BANK
11-7-13 [[21](#)]

23. [13-16471](#)-B-13 JASVINDER SHERGILL
GH-3
JASVINDER SHERGILL/MV
GARY HUSS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
EH NATIONAL BANK
11-7-13 [[27](#)]

24. [12-15475](#)-B-13 HENRY FLORES
PBB-2
HENRY FLORES/MV
PETER BUNTING/Atty. for dbt.

MOTION TO MODIFY PLAN
11-15-13 [[52](#)]

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The debtor(s) shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

25. [11-10682](#)-B-13 FRANCES/RICKY PASLEY
MNE-6
FRANCES PASLEY/MV
M. ENMARK/Atty. for dbt.

MOTION TO MODIFY PLAN
11-11-13 [[103](#)]

26. [09-10387](#)-B-13 JAMES DEALEY
GH-2
JAMES DEALEY/MV
GARY HUSS/Atty. for dbt. MOTION TO EXTEND TIME TO CURE
PLAN DEFAULT
12-6-13 [[62](#)]
27. [12-15887](#)-B-13 KENNETH/LENA BRADLEY
BCS-3
BENJAMIN SHEIN/MV

BENJAMIN SHEIN/Atty. for dbt. MOTION FOR COMPENSATION BY THE
LAW OFFICE OF SHEIN LAW GROUP,
P.C. FOR BENJAMIN C. SHEIN,
DEBTOR'S ATTORNEY(S),
12-9-13 [[51](#)]
28. [13-16593](#)-B-13 JASPAL AMROKE AND BALJIT
THA-1 KAUR
MID VALLEY SERVICES, INC./MV
THOMAS GILLIS/Atty. for dbt. MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-10-13 [[36](#)]
THOMAS ARMSTRONG/Atty. for mv.
29. [13-16593](#)-B-13 JASPAL AMROKE AND BALJIT
TOG-4 KAUR
JASPAL AMROKE/MV
THOMAS GILLIS/Atty. for dbt. MOTION TO CONFIRM PLAN
11-5-13 [[23](#)]
- This matter will be continued to February 13, 2014, at 1:30 p.m. The trustee has not yet concluded the meeting of creditors and by prior order of the court, the trustee has another 7 days after completion of the creditors' meeting to file his objection to the plan. The court will prepare a civil minute order. No appearance is necessary.**
30. [13-14395](#)-B-13 DARLA RAMBONGA
SL-3
DARLA RAMBONGA/MV
SCOTT LYONS/Atty. for dbt. MOTION TO VALUE COLLATERAL OF
ONEMAIN FINANCIAL, INC.
12-19-13 [[66](#)]

31. [13-10898](#)-B-13 ADRIAN/ADRIANE MENDOZA MOTION FOR RELIEF FROM
MRG-2 AUTOMATIC STAY
USAA FEDERAL SAVINGS BANK/MV 12-3-13 [[90](#)]
ANDREW MOHER/Atty. for dbt.
MICHAEL GONZALES/Atty. for mv.

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted without oral argument for cause shown. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 4001(a)(3), that relief will be granted. *Unless the court expressly orders otherwise, the proposed order shall not include any other relief.* If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. § 506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

32. [13-16616](#)-B-13 JOE BOSS CONTINUED HEARING RE: OBJECTION
HTP-2 TO CONFIRMATION OF PLAN BY
UNITED SECURITY BANK/MV UNITED SECURITY BANK
11-26-13 [[36](#)]

SCOTT LYONS/Atty. for dbt.
HANNO POWELL/Atty. for mv.

33. [13-15129](#)-B-13 BENITO DIAZ AND ROSA OBJECTION TO CONFIRMATION OF
MHM-1 GARCIA PLAN BY MICHAEL H. MEYER
MICHAEL MEYER/MV 12-23-13 [[71](#)]
THOMAS GILLIS/Atty. for dbt.

34. [13-17635](#)-B-13 BRYAN/LANETTE DELK MOTION FOR RELIEF FROM
APN-1 AUTOMATIC STAY
FORD MOTOR CREDIT COMPANY/MV 12-20-13 [[14](#)]
F. GIST/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

35. [12-12332](#)-B-13 JOSE LOZANO MOTION TO VACATE DISMISSAL OF
TOG-7 CASE
JOSE LOZANO/MV 12-26-13 [[147](#)]
THOMAS GILLIS/Atty. for dbt.
DISMISSED

2:00 P.M.

1. [13-16703](#)-B-13 AGUSTIN AREVALO
MHM-1
MICHAEL MEYER/MV

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
AND/OR MOTION TO DISMISS CASE
12-6-13 [[28](#)]